

REMARKS / ARGUMENTS

In the Office communication mailed June 21, 2005, the Examiner objected to the Specification and claims due the misspelling of "scraper," and rejected claims 1-4, all the claims presented for examination, under 35 U.S.C. § 103(a) as being unpatentable over
5 Dunn et al., U.S. Patent 5,213,165, in view of Confoey, U.S. Patent 6,904,979.

The Examiner is requested to reconsider and further examine this application, as amended, for the following reasons given in connection with a discussion of the prior art.

Specification and Claim Objections

10 The disclosure and claims have been carefully reviewed and amended to correct the spelling of "scraper." According, the Examiner is requested to reconsider and remove the objection to the Specification and Claims.

Claim Rejections - 35 U.S.C. § 103

Claims 1-4, all the claims presented for examination, were rejected under 35 U.S.C.
15 § 103(a) as being unpatentable over Dunn et al., U.S. Patent 5,213,165, in view of Confoey, U.S. Patent 6,904,979. In rejecting the claims 1-4, the Examiner states:

20 "What the Dunn '165 patent does not disclose is that the first and second scraper blades are lead by a V-shaped scraper blade mounted at the front of the main frame. The Confoey '979 patent teaches that it is know in the art to provide a land plane with a V-shaped scraper blade (74) having a forward apex (73) leading a rear transverse scraper blade (77, 76)."

Also, regarding claim 4, the Examiner states:

“The Confoey ‘979 patent further teaches that to place a hydraulic cylinder (52 - see col. 4, lines 41-44) between the main frame and the hitch.”

5 Under 37 C.F.R. § 1.131, when any claim of an application is rejected based on a U.S. Patent filed less than one year before the filing date of that application, the inventors of the subject matter of the rejected claim may submit an appropriate declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference, causing that rejection to be overcome and withdrawn. The Confoey
10 ‘979 patent issued June 14, 2005, based on an application filed September 16, 2003. The present application was filed February 5, 2004, substantially less than one year after the filing date of the Confoey ‘979 patent. The declarations of both joint inventors of subject invention (the “Declaration of Edward L. Taylor under 37 C.F.R. § 1.131” and the “Declaration of Johnny W. Taylor under 37 C.F.R. § 1.131”) accompany this
15 response and establish invention of the subject matter of rejected claims 1-4 of subject application, including the first and second scraper blades being lead by a V-shaped scraper blade mounted at the front of the main frame and the hydraulic cylinder between the main frame and the hitch (see, e.g., Exhibits B and E of said declarations), prior to the September 16, 2003 effective date of the Confoey ‘979 patent.

20 Accordingly, the rejections of claims 1-4 under 35 U.S.C. § 103(a) as being unpatentable over the Dunn ‘165 patent in view of the Confoey ‘979 patent are now overcome, and the Examiner is respectfully requested to withdraw those rejections.

In conclusion, it is submitted that the present application and all of its remaining claims are now in condition for an early allowance. All the prior art of record has been

Application No. 10/772,659
Reply to Office action of June 21, 2005

reviewed and considered but are not felt to come within the coverage of the claims now
in this case or to disclose or suggest the invention as specifically defined by the claims
now in this case. Nothing in the prior art discloses or suggest a land plane as specifically
defined by the claims now in this case. If the Examiner is of the opinion that a telephone
5 conference relative to this case would advance the prosecution, the Examiner is
respectfully requested to call the undersigned attorney at the indicated telephone
number.

Reconsideration and allowance of claims 1-4 are requested. Applicants
respectfully requests that a timely Notice of Allowance be issued in this case.

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Respectfully submitted,

Edward L. Taylor and Johnny W. Taylor,
Applicants

Date: 9-19-05

By: Larry W. McKenzie

Larry W. McKenzie
6363 Poplar Ave., Suite 434
Memphis, TN 38119-4896
Tel. No. (901) 685-7428
Registration No. 28,239
Attorney for Applicants

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20 P.O. Box 1450
Alexandria VA 22313-1450

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Larry W. McKenzie

Larry W. McKenzie Reg. No. 28,239

25 Date: 9-19-05